
(2013) 12 MP CK 0038
In the Madhya Pradesh High Court
Case No : Writ Petition No. 4022 of 2013

Smt. Kiran Kapoor

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 17-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0038

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Vivek Jain, for the Appellant; Sangeeta Pachori, Deputy Government Advocate for the State, for the Respondent

Final Decision : Allowed

Judgement

Sujoy Paul, J.—This petition filed under Article 226 of the Constitution of India is directed against the order dated 30.4.2013 (Annexure P-1) whereby petitioner's application for renewal of mining lease is rejected. The singular reason assigned in the said rejection order is that in the M.P. Minor Mineral Rules, 1996, an amendment was made on 19.4.2010. After the amendment, the allotment can be done only by way of auction and application for renewal of lease cannot be entertained. By taking this Court to the judgment passed in W.P. No. 1438/2011 (Devendra Singh Dangi v. State of M.P. and others) (Annexure P-5), it is contended that the said reason runs contrary to the legal position laid down by this Court.

2. Mrs. Pachori supported the order but did not refute the said legal position.

3. Considering the aforesaid, the singular question needs to be decided is whether the amendment dated 19.4.2010 in M.P. Minor Mineral Rules, 1996 will take away the right to prefer application for renewal to the petitioner. In para 8 and 11 of the aforesaid judgment, this Court opined as under:--

8. The single and pivotal question before this Court is what is the effect of the amendment (Annexure P/2) and whether such amendment bestow any right to

the Government to decline consideration of application for renewal submitted by the petitioner. In the considered opinion of this Court, the singular reason assigned in Annexure P/1 runs contrary to the amended provision. By Annexure P/1 the authority has completely failed to see that the application filed by the petitioner was not for grant of quarry lease but for the renewal of the licence. As per amended notification (Annexure P/2) reproduced above the provision of renewal of the quarry lease is very much in existence. In the light of the aforesaid, the reason assigned in the order Annexure P/1 cannot be permitted to stand. This is also settled law that the validity of the order by statutory authority is to be judged on the ground mentioned in the order.

11. However, the arguments of Smt. Patankar is liable to be accepted to the extent that it cannot be decided in these proceedings whether the application for renewal was filed by the petitioner within the time or not? Since this Court has quashed the order dated 26.6.2010, it shall be the duty of the said authority to consider the renewal application of the petitioner in accordance with rules and it shall be open to the said authority to examine whether the application for renewal was filed within time and as per rules. In other words, this Court has not expressed any opinion about the right of the licensee to grant his leased renewed.

4. In view of this legal position, it is clear that the amendment aforesaid will not take away the right to prefer the renewal application.

5. Resultantly, the impugned order is bad in law and cannot be permitted to stand. The respondent No. 2 shall consider the renewal application of the petitioner and decide it in accordance with law. It is made clear that this Court has not expressed any opinion on the entitlement of the petitioner.

6. The interim order passed by the coordinate Bench dated 24.6.2013 shall continue till decision taken by the respondent No. 2 on the renewal application. It is expected that the competent authority will decide the application for renewal expeditiously, preferably within 45 days. Petition is allowed. No cost.